IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5748 OF 2007

Smt.Alkak Dadu Sathe ....Petitioner
V/s
Vita Merchant Cooperative Bank Ltd. & Ors.. .....Respondents.

Mr.Kuldeep S. Patil, Adv. For the petitioner.

CORAM: A.P.DESHPANDE, J.

14/9/07

PC:

The petitioner filed an insolvency application which came to be numbered as Application No.4/06 pending on the file of the Civil Judge, Senior Division, Sangli. Pending insolvency application when the respondent No.2-bank proceeded to take possession of secured assets by having recourse to provisions of section 13 of the Securitisation Act, the petitioner filed an application seeking injunction against the bank from proceeding under section 13(4) of the Act. The trial Court granted the injunction. However in an appeal filed by respondent No.2-bank the District Judge has set aside the order of injunction and aggrieved thereby the present writ petition has been filed. It is obvious that when the bank proceeds in relation to secured assets under the Securitisation Act the jurisdiction of the civil court stands ousted and the remedy that is available to the mortgagor/borrower of the secured assets is to file an

appeal before the Debt Recovery Tribunal. The First Appellate Court has proceeded on the basis of law laid down by the Supreme Court in Mardia Chemical's case. In this view of the matter there is no merit in the petition. Hence the same is summarily dismissed. It is made clear that it shall be open for the petitioner to file appropriate appeal before Debt Recovery Tribunal. All questions are left open to be agitated before the Debt Recovery Tribunal.

14.9.07